

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1469

United States of America,

Appellee,

v.

Tyrone Powell,

Appellant.

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* Appeal from the United States

* District Court for the

* District of Minnesota.

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* [UNPUBLISHED]

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Submitted: November 5, 2003

Filed: November 7, 2003

Before BYE, BOWMAN, and MELLOY, Circuit Judges

PER CURIAM

Pursuant to a written plea agreement, Tyrone Powell pleaded guilty to conspiring to distribute and to possess with intent to distribute 50 grams or more of cocaine base and 5 kilograms or more of cocaine, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(A). The district court¹ sentenced him to 120 months imprisonment and 5 years supervised release, and Powell appeals.

¹The Honorable Paul A. Magnuson, United States District Court Judge for the District of Minnesota.

In the plea agreement, Powell waived all his appellate rights unless his sentence exceeded 135 months. After carefully reviewing the record, we conclude Powell's challenge to his 120-month sentence is within the scope of the waiver, he does not contend he entered into the plea agreement unknowingly or involuntarily, and no miscarriage of justice would result from enforcing the waiver. See United States v. Andis, 333 F.3d 886, 889-91 (8th Cir. 2003) (en banc). Accordingly, we enforce his waiver, dismiss this appeal, and deny Powell's pending motion.
